

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JEREMY P. GALLANT,
Plaintiff,

Case No. 1:16-cv-487

Barrett, J.
Litkovitz, M.J.

vs.

ANTHONY CADOGAN, et al.,
Defendants.

ORDER

This matter is before the Court on defendants' motion to strike plaintiff's "Notification of Defendants Factitious Denials in Response to Complaint" (Doc. 19), which plaintiff filed on July 14, 2016. (Doc. 22). Defendants allege that the filing is an impermissible "reply" to its answer filed on June 24, 2016. (*See* Doc. 16). Defendants contend the Court should either strike plaintiff's unauthorized filing pursuant to Fed. R. Civ. P. 12(f) or allow the document to remain in the case file but disregard it. (Doc. 25 at 3-4). Plaintiff argues that defendants have erroneously construed his filing as a response to defendants' answer to the complaint. (Doc. 25). Plaintiff denies the filing is a response to the answer and asserts it serves to notify the Court "of the factitious denials set forth in defendants [sic] response (Doc 16) to the plaintiffs [sic] complaint (Doc 3)." (*Id.*).


Motions to strike are governed by Fed. R. Civ. P. 12(f), which provides that a court "may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f). Included in Rule 7(a)'s definition of a pleading is "a reply to an answer" if ordered by the court. Fed. R. Civ. P. 7(a)(7). By the plain language of the rule, a reply to an answer is not appropriate unless ordered by the court. *Id.*

Here, it is clear from the substance of plaintiff's "Notification" that it is a reply to defendants' answer. Plaintiff filed the reply to defendants' answer in the absence of a Court order. Consequently, plaintiff's filing is not permitted by the Federal Rules of Civil Procedure.

Thus, defendants' motion to strike plaintiff's reply to defendants' answer (Doc. 22) is **GRANTED**. The Clerk is **DIRECTED** to strike plaintiff's "Notification of Defendants Factitious Denials in Response to Complaint" (Doc. 19) from the record.

IT IS SO ORDERED.

Date: 9/20/16


Karen L. Litkovitz
United States Magistrate Judge